

ORDINANCE NO. 08-97

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW 7 PARKING SPACES, WHERE 18 PARKING SPACES ARE REQUIRED, AND WAIVE A PORTION OF THE REQUIREMENTS OF THE MIAMI-DADE LANDSCAPE MANUAL AS SUPPLEMENTED BY THE CITY OF HIALEAH LANDSCAPE MANUAL, TO WIT: 7-FOOT LANDSCAPE BUFFER BETWEEN THE OFF-STREET PARKING AND THE RIGHT-OF-WAY, FOR AN EXISTING ASSISTED LIVING FACILITY, CONTRA TO HIALEAH CODE §§ 98-2189(21) AND 98-2197(a). **PROPERTY LOCATED AT 68 WEST 7 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of October 22, 2008 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby granted a variance permit to allow 7 parking spaces, where 18 parking spaces are required, and waive a portion of the requirements of the Miami-Dade Landscape Manual as supplemented by the City of Hialeah Landscape Manual, to wit: 7-foot landscape buffer between the off-street parking and the right-of-way, for an existing Assisted Living Facility, contra to Hialeah Code §§ 98-2189(21) and 98-2197(a), which provide in pertinent part: “*Residential care, treatment and convalescent home uses.* One parking space for every three patient beds.”

and "Off-street parking areas shall be landscaped according to the latest edition of the Miami-Dade County Landscape Manual for off-street parking and other vehicular use areas, as modified and supplemented by the city landscape manual, . . . ", respectively. Property located at 68 West 7 Street, Hialeah, Miami-Dade County, Florida, zoned R-3-D (Multifamily District), and legally described as follows:

LOTS 3, 4 AND 5, BLOCK 25, TOWN OF HIALEAH,  
ACCORDING TO THE PLAT THEREOF, AS  
RECORDED IN PLAT BOOK 5, PAGE 77, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY,  
FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

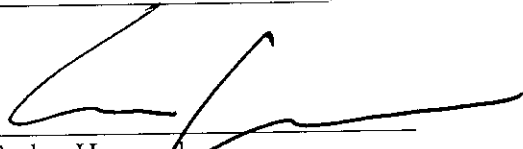
**Section 4: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 9th day of December, 2008.

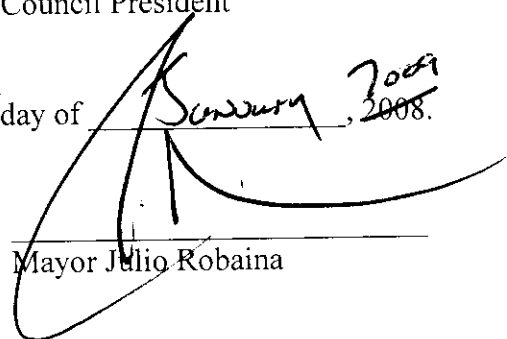
  
\_\_\_\_\_  
Carlos Hernandez  
Council President

Attest:

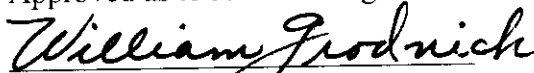
Approved on this

12

day of

January, 2009  
\_\_\_\_\_  
Rafael E. Granado, City Clerk  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".



CFN 2009R0040296  
OR Bk 26722 Pgs 1269 - 1270; (2pgs)  
RECORDED 01/20/2009 10:54:38  
HARVEY RUVIN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**Prepared by and return to:**  
City of Hialeah  
Planning Division  
501 Palm Avenue, Second Floor  
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS  
(Corporate)**

(I) (WE), Olga L. Benito, President, AJB Group, Inc.

Being the owner(s) of lands described herein:

Lots 3, 4 and 5, Block 25, Town of Hialeah, according to the Plat thereof, as recorded in Plat Book 5, Page 77, of the Public Records of Miami-Dade County, Florida.

The street property address is 68 West 7 Street, Hialeah, Florida.

The folio number is 04-3118-001-3050,

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The existing use of the premises located at 68 West 7 Street, Hialeah, Florida is an Assisted Living Facility, and as such, the parking and landscaping variances were granted in connection with the existing use. If the use as an Adult Living Facility is discontinued, then the property owners will concede to the revocation of Hialeah, Fla., Ordinance 2008-97.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

2008-697

DECLARATION OF RESTRICTIVE COVENANTS  
(Corporate)

OR BK 26722 PG 1270  
LAST PAGE

IN WITNESS WHEREOF, We have hereunto set out hands and seals at

6807th this 8 day of January, 2009  
(location)

Attest:

Secretary:

Typed/Printed Name

Signed, sealed and delivered in the  
presence of:

Rosario Perez Rosario

Witness

Typed/Printed Name

Nailen Toledo

Witness

Typed/Printed Name

Name of Corporation:

AJB Group, Inc.,

By:

President:

Olga L. Benito, President

Typed/Printed Name

Corporate Seal

STATE

OF

COUNTY

OF

Florida

MIAMI-DADE

The foregoing instrument was acknowledged before me on this

by Olga L. Benito

as President, and

N/A

as Secretary, of

(Name of Officer or Agent)

(Name of Secretary)

AJB Group, Inc.

(Name of Corporation)

corporation, a

Florida

corporation.

(State or Place of Incorporation)

They are personally known to me or have produced the following Florida Drivers License  
as identification and did (did not) take an oath and who attest to the truth and accuracy of the  
representations contained herein.

This document was prepared by:

City of Hialeah, Florida

Name

501 Palm Avenue

Street

Hialeah, Florida 33010

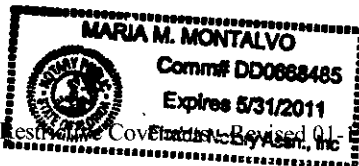
City

State

Zip Code

Maria M. Montalvo  
Signature of Notary Public

MARIA M. MONTALVO  
Name of notary typed, printed, or stamped  
Commission Number:



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